IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 454 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SEVANTILAL REVCHAND SANGHVI

Versus

RELIANCE INDUSTRIES LTD.

Appearance:

MR PK JANI for Petitioner

MR YOGESH S LAKHANI for Respondent No. 1

MR HL JANI, APP for respondent No.2-State

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 10/05/2000

ORAL JUDGEMENT

Rule. Learned advocate Mr. Y.S.Lakhani waives service of rule on behalf of the respondent No.2 and learned A.P.P. Mr. H.L.Jani waives service of rule on behalf of the respondent No.2-State.

2. The respondent No.1 herein filed Special Civil

Suit No.285/97 before the learned Civil Judge (S.D.), Surat, against the petitioner and other 10 persons and prayed for specific performance of the contract and also prayed for incidental reliefs. Respondent No.1 in the said filed an injunction application Exh.5 and obtained interim relief and during the pendency of the above proceedings, respondent No.1 filed one criminal complaint on 5-8-97 in the Court of learned J.M.F.C., Surat, against the present petitioner and same came to be registered as Criminal Inquiry No.63/97 and learned J.M.F.C., Court No.2, Surat, on 5-8-97 passed an order under Section 156 (3) of the Code of Criminal Procedure and directed the Police Officer In-charge of Ichhapor Police Station, Tal. Choryasi, Dist : Surat to investigate the matter and submit the report within 30 days. On receiving the same, the Police Officer In-charge of Ichhapor Police Station has started investigation and at the end of investigation, he has submitted his final report before the learned J.M.F.C., Court No.2, Surat on 20-11-99 praying that "C" summary report be granted. Against that the complainant gave one application on 20-11-97 and prayed that before passing any order upon the report submitted by the Investigating Officer, the complainant be heard. Same way, the petitioner also requested the Court that before passing any order, he be heard, but the said application came to be rejected by the learned J.M.F.C. and after hearing learned advocate for the complainant, the Court vide order dated 6-1-1998 accepted the summary report submitted by the Police Officer. Being aggrieved by that order, the complainant preferred Criminal Revision Application No.19/98 before the Sessions Court, Surat, The learned Sessions Judge, Surat, after hearing the parties, vide his order dated 27th July, 1998, allowed Criminal Revision Application directed the Commissioner of Police, Surat, to investigate the matter under Section 173 (8) of the Code of Criminal Procedure within a period of 30 days. Against the said order, the petitioner-accused has preferred present Criminal Revision Application under Section 397 read with Section 401 of Code of Criminal Procedure.

3. Heard Mr. P.K.Jani, learned advocate for the petitioner, Mr. Y.S.Lakhani, learned advocate for the respondent No.1 and Mr. H.L.Jani, learned A.P.P. for the respondent No.2. The parties have produced the xerox copy of the terms and conditions of the settlement arrived at between the petitioner and respondent No.1-original complainant in Special Civil Suit No.285 of 1997, which is ordered to be taken on record. By way of this compromise pursis Exh.128, the parties have finally

settled the dispute in Special Civil Suit No.285 of 1997 which is filed for specific performance of the contract and in view of the above consent terms pursis, learned 2nd Joint Civil Judge (S.D.), Surat, has disposed of Special Civil Suit No.285 of 1997 accordingly.

4. Learned counsel for the complainant has made a statement at the bar that the whole dispute has been finally settled between the parties as per the consent terms Exh.128 and in view the memorandum of understanding Annexure "A" which is the part of consent terms Exh.128, wherein as per the condition No.3, the parties agreed that "

> "Disputes and differences arose by and between Reliance of the one part and the Developer and the Land Owner of the other part which culminated into Reliance filing a suit, being Special Civil Suit No.285 of 1997 in the Court of Second Joint Judge, S.D., Surat, against the Developer and the Land Owner and also filing a criminal complaint being criminal complaint No.63 of 1997 before Court of 2nd Judicial Magistrate First Class, Surat and the Developer filing Criminal Revision Application No.454 of 1998 before the Hon'ble High Court of at Ahmedabad (all of which proceedings are hereinafter collectively referred to as " Pending Legal Proceedings")."

As per the condition No.12, the parties agreed that :

> "After compliance by the parties hereto all their respective obligations, the parties shall withdraw the Pending Litigation as mentioned in para (3) of this MoU filed by any of the parties hereto before 30-5-99."

5. Thus, the parties made a statement that in view of the above consent terms and MoU between the parties and when the whole dispute between the parties is fully settled between them, the complainant is not inclined to proceed further with the complaint. Learned counsel for the petitioner-accused also agreed to the above understanding.

6. Therefore, in view of the facts and circumstances of the case and in view of the fact that the Court below has decided the Revision Application against the settled principles laid down by this Court as well as Apex Court,

interference of this Court is a must and therefore, without entering into the merits and demerits of the case, this petition is required to be allowed.

7. For the foregoing reasons, the petition is allowed. The judgment and order dated 27th July, 1998, passed by the learned Sessions Judge, Surat, in Criminal Revision Application No.18 of 1998 is hereby quashed. Rule made absolute with no order as to costs.

10-5-2000 (R.P.Dholakia, J.)

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